

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Marc Saeed Sultana,

Civ. No. 21-2364 (JWB/TNL)

Plaintiff,

v.

**ORDER ACCEPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE**

Endeavor Air,

Defendant.

Marc Saeed Sultana, 112080 Stone Creek Drive, Chaska, MN 55318, Pro Se.

Andrew E. Tanick, Esq., and Colin H. Hargreaves, esq., Ogletree Deakins Nash Smoak & Stewart PC, counsel for Defendant.

This matter is before the Court on the Report and Recommendation (“R&R”) by United States Magistrate Judge Tony N. Leung dated May 30, 2023. (Doc. No. 97.) Plaintiff has filed an objection to the recommendation that this Court dismiss his complaint with prejudice. (Doc. No. 104.)

The Court reviews the portions of the R&R to which Plaintiff objects *de novo* and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); D. Minn. LR 72.2(b)(3). The Court reviews any aspect of an R&R to which no specific objection is made for clear error. *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996); *see also* Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in

order to accept the recommendation.”). Because Plaintiff is *pro se*, his objections are entitled to liberal construction. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

The Court has reviewed Plaintiff’s objections to the May 30, 2023 R&R. Plaintiff challenges several facts that he asserts the R&R failed to contextualize in its conclusions. (Doc. No. 104 at 25.) For example, Plaintiff “admits sending” ex parte communications despite repeated admonition from the Court, and he offers that he “never meant to offend the court.” (*Id.* at 13.) And Plaintiff points to his alleged medical condition as the reason for much of his behavior. (*Id.* at 15-22.) But Plaintiff’s attempts to contextualize or justify the transgressions are mistaken on the merits or are insufficient to identify an error that warrants rejecting the recommendations in the R&R. His repeated, and at times willful, disregard of clear instructions—despite being given numerous opportunities to comply—warrants dismissal under Federal Rules of Civil Procedure 16(f), 37, and 41(b).

After carefully reviewing all other portions of the R&R not specifically objected to, the Court finds that it is neither clearly erroneous nor contrary to law. Based on that review, and in consideration of the applicable law, the Court accepts the R&R in its entirety.

IT IS HEREBY ORDERED that:

1. Plaintiff Marc Saeed Sultana’s Objections to Magistrate’s Report and Recommendations (Doc. No. 104) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 97) is **ACCEPTED**;
3. Defendant’s Motion to Dismiss (Doc. No. 55) is **GRANTED**;
4. Plaintiff Marc Saeed Sultana’s Complaint is **DISMISSED WITH**

PREJUDICE; and

5. Plaintiff Marc Saeed Sultana's Motion to Amend Scheduling Order (Doc. No. 92) is **DENIED AS MOOT**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: August 23, 2023

s/ Jerry W. Blackwell

JERRY W. BLACKWELL

United States District Judge